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OLC 78-0836/2

10 April 1978

MEMORANDUM FOR THE RECORD

SUBJECT: S. 2117, Amendments to Federal Tort Claims Act

1. On 28 March 1978 I received a call from Bob Carlstrom, OMB, concerning our comments of 17 March on proposed amendments to S. 2117. Mr. Carlstrom indicated that he saw no problem with our suggestions for changing proposed sections 7802(b) and (b)(1), 7804 and 7806.

2. Mr. Carlstrom said that OMB had not made a decision on section 7803, which deals with former employees and employees appointed by the President. OMB is concerned because this section could be used against former employees for political reasons. He added that our amendment seemed reasonable.

3. In regard to proposed sections 7805 and 7802(b)(2) (the former deals with issuing regulations and the latter with appeals), Mr. Carlstrom said that OMB had generally accepted our position. They wished, however, to deal with the Intelligence Community as a whole and wondered what would be the proper vehicle. I told him that the DCI could issue the regulations and the IOB could hear appeals. He proposed the following language for section 7802(b)(2):

"To a reviewing agency designated by the President if employee or officer engages in intelligence activities or the case involved national security and that agency assumes jurisdiction over the proceeding, ..."

I told him that everything following "security" in line three was redundant and confusing and could be dropped. Otherwise, I said the language seemed acceptable. Mr. Carlstrom indicated that the same language might be used for designating who could issue regulations for the Intelligence Community under section 7805.

4. All comments were concurred in by , OGC.

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